

From: Penn Dodson penn@andersondodson.com 
Subject: Re: FRE 408 Rx2Go
Date: June 26, 2024 at 2:13 PM
To: Emanuel Kataev emanuel@sagelegal.nyc
Cc: Lucy Espinal iespinal@andersondodson.com



I have reviewed and analyzed this production, which consists of reports, for each plaintiff, by the day of addresses of deliveries made, time stamps for those deliveries, the Defendants' assertion as to how many hours the plaintiffs worked, and a dollar figure at the bottom indicating how much the plaintiff was supposedly paid for that day's work. Thank you for producing it, but as I mentioned before we still need more information.

In particular, you have produced **no** records regarding payments made to the plaintiffs, what the schedule was for how much they were to receive per stop, what deductions were made to their pay, when (and whether) the amounts indicated were in fact paid, etc. This would likely consist of something like records showing payments made (whether by check, zelle or its equivalent, cash, or whatever else) as well as internal bookkeeping records indicating how those figures were arrived at. The second major gap is the lack of information about tips. See my May 24, 2024 letter for more detail as to each of these categories.

After our most recent in person conference the minute order stated that

Defendants are ordered to turn over all ESI material regarding time and wage payment records (including information about tips) by May 20, 2024. By that date, Defendants must also describe the contents of any paper records that they cannot produce immediately, and produce them before the start of mediation.

Is your client intending to produce this soon? If they are not intending to do so please indicate why. Without this additional information I do not see how we can have a productive mediation session, because I will not have a strong evidentiary basis upon which to recommend to my clients that they compromise the numbers I put in my May 24 letter. (You have also not produced any data at all in native format).

If I do not have this additional production by the end of the week I will have no choice but to reach out to the court again to express that while we are willing to proceed with attending the mediation as ordered if the court still wants us to, Defendants' failure to produce this basic and essential information (as ordered) is a huge impediment to it having any chance of being successful.

On Jun 24, 2024, at 11:51 PM, Emanuel Kataev <emanuel@sagelegal.nyc> wrote:

Attached is Defendants' second production of documents Bates stamped D15-D1251 for settlement purposes only, which contain the paper files you sought. I am working on obtaining the documents for the fourth Plaintiff.

Regards,

Emanuel Kataev, Esq.
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-----Original Message-----

From: Penn Dodson <penn@andersondodson.com>
Sent: Tuesday, June 18, 2024 9:32 AM
To: Emanuel Kataev <emanuel@sagelegal.nyc>
Cc: Lucy Espinal <lespinal@andersondodson.com>
Subject: Re: FRE 408 Rx2Go

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<D15-D1251.pdf>